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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,835	02/04/2002	Tsann Lin	SJO920010058US1	4835

7590 10/15/2003
Brian C. Kunzler
10 West 100 South
Salt Lake City, UT 84101

EXAMINER

BERNATZ, KEVIN M

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 10/15/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

AS12

Advisory Action

Application No.

10/066,835

Applicant(s)

LIN ET AL.

Examiner

Kevin M Bernatz

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-12.

Claim(s) withdrawn from consideration: 13-26.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Kub
10/14/03

Continuation of 5. does NOT place the application in condition for allowance because: applicants declaration, which has been thoroughly considered, is not convincing. Specifically, the declaration asserts that the thickness of the gap layer taught by Sasaki et al. "is necessarily ten times thicker than that of the claimed invention" (paragraph 7 of declaration), yet the Examiner notes that Sasaki et al. teach preferred total thickness values of 100 - 150 Angstrom, which is nearly identical to the thickness values claimed by applicants (claims 7 - 9). The declaration further asserts differences in the layers, resulting in poor performance, but provides no evidence supporting the assertions and the Examiner notes that Sasaki et al. teach that the disclosed structure possesses improved performance in terms of less thickness required, no pinholes and improved output/recording density (Paragraphs 0111 - 0112). Finally, the Examiner notes that the base claims do not even require the same process as argued in the declaration, i.e. "successive metallic layers that are in-situ oxidized" (paragraph 6 of the declaration).

The Examiner notes that the subject matter added in claim 8 is taught by Sasaki et al. for the reasons of record as pertaining to the subject matter of claim 9.


Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700